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June 2nd, 2015 Minutes

Brookings County Planning & Zoning Commission
June 2nd, 2015 – 8:00 PM
Brookings City & County Government Center
310 Chambers

Chair Robbins called the meeting to order at 8:00 PM. Commission members present were: Lee Ann Pierce, Robert Rochel, Kimberly Elenkiwich, Darrell Nelson, Darrel Kleinjan, Laurie Nichols, Terrell Spence and Randy Jensen and alternate board members Roger Erickson and Tom Davis.

Chair Robbins read **agenda item # 2: Approval of minutes from May 5th, 2015**. Lee Ann Pierce moved to approve the minutes. Terrell Spence second. Chair Robbins called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Robbins read **agenda item # 3: Items to be added to agenda by commission members or staff**. No items were added by staff.

Chair Robbins read **agenda item # 4: Invitation for citizen to schedule time on the commission agenda for an item not listed. Time limited to 5 minutes per person to address the board**. No one scheduled time to address the board.

Chair Robbins stated "We will not be hearing agenda item # 11) 2015cu007: Bill & Julie Ross tonight, it will be heard next month. We will move agenda item 12) Consideration of Plats: a), b) and c) up to be heard first by the Planning and Zoning Commission. We will go into the Board of Adjustment for agenda item # 6) 2015var007, back to the Planning and Zoning Commission for item # 10) 2015cu006, to the Board of Adjustment for item # 7 and 8 and finally back to the Planning and Zoning commission for item # 9, followed by item 13) Department Reports and 14) Adjourn. This way the applicants for the plat will not have to stay to the end of the meeting and conditional use and variances for the dairy are all done at one time. If this is alright with the board." No one from the board voiced concerns.

Chair Robbins read **agenda item # 5: Approval of Agenda**. Bob Rochel moved to approve the agenda. Kimberly Elenkiwich seconded. Chair Robbins called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Robbins stated, "We are now acting as the Brookings County Planning and Commission and read the opening statement". Chair Robbins turned the chair over to vice chair Bob Rochel at this time, due to a conflict of interest. Alternate board member Tom Davis filled in for Chair Robbins at this time. Vice Chair Bob Rochel read **agenda item # 12: a) 2015plat018: "Plat of Dakota Shores Second Subdivision, located in Gov't Lots 3 & 4, Section 15, T112N, R47W of the 5th P.M., Brookings County, South Dakota."** Darrell Nelson moved to approve the plat. Darrel Kleinjan second. Vice Chair Rochel opened up for discussion and asked Mr. Haugen for a staff report. Mr. Haugen stated, "Mr. Zylstra was in last fall with a preliminary plat 2014preplat016 for these lots, which was approved by this board. He is here tonight with a final plat for lots 7, 8 and 11 that he has purchase agreements on and will plat the remaining lots as they are sold. These are non-lake front lots across the road from an existing development and meet the lake park requirements." The board discussed what the lots would be used for. Mr. Tom Reeves a lawyer representing Mr. Zylstra stated, "They will file a restrictive covenants to only allow the lots to be used for storage only, no residential or occupation by people." Vice Chair Rochel opened up for discussion from the audience, seeing none, he asked for further discussion from the board, seeing none he called for a roll call vote: Pierce-aye, Davis-aye, Elenkiwich-aye, Nelson-aye, Kleinjan-aye, Nichols-aye, Spence-aye, Jensen-aye and Rochel-aye. 9-ayes and 0-nays, motion carried. Vice Chair Rochel turned the meeting back over to Chair Robbins and alternate member Tom Davis removed himself from the board at this time.

Chair Robbins read **agenda item # 6: 2015var007: Darres Nelson has made an application, 2015var007, to the Brookings County Board of Adjustment for a variance. Article 11.00: Section 11.01 "A" Agricultural District: Area Regulation # 2: Front Yard: The minimum depth of the front yard shall be one hundred (100) feet. A corner lot will have two front yards. The property is described as: "S513' of N1, 349' of E374' of SE1/4, Section 33, T109N, R49W (Trenton Township)." ~ located at 21971 475th Ave, Aurora, SD 57002.** Board member Darrell Nelson removed himself from the board due to conflict of interest and alternate board member Roger Erickson filled in for Mr. Nelson at this time. Kim Elenkiwich moved to approve the variance request. Randy Jensen second. Chair Robbins opened up for discussion and asked Mr. Haugen for staff report. Mr. Haugen stated "Mr. Nelson has applied for a variance to build a tree house approximately 92 feet from the center of the road (475th Ave). There are electric line, water lines, geothermal lines and a septic system through the yard limiting the space where trees were planted. Trees suitable to be built on are limited. The other trees in the yard are smaller and not suitable for building. The Brookings County Highway superintendent does not have any objections to the variance request. Mr. Nelson had started building the tree house and the stopped when he contacted the zoning office was advised that it would have to meet the setback requirements. There are evergreens between the proposed structure and the road." Chair Robbins asked Mr. Nelson to address the board. Beth Nelson, Darres's wife addressed the board stating, "They would like to build a tree house for children. The space is very limited and this is a tree that is big enough to build

on. It is close to the house to monitor and is sheltered from the road by a row of 4 evergreens. The trees in the back yard are very few, they are smaller or dying. There will be no plumbing or electrical service in the structure. The bottom will be open and the upper portion will have railing around the outside. A board member discussed that current setbacks are in place and need to be followed, for the purpose of the ordinance. The board also discussed, the evergreens near the road are considered landscaping, the lower portion of the structure will be open and structure will be shielded by the evergreen trees, a building permit will be required and the railing will have to meet building code. Chair Robbins opened up for discussion from the audience. Seeing none he asked for further discussion from the board. Seeing none he asked Mr. Haugen to go over the findings of the facts, with any additions, which are on file. Chair Robbins called for a roll call vote: Kleinjan-aye, Nichols-aye, Spence-aye, Jensen-aye, Elenkiwich-aye, Pierce-nay, Rochel-aye, Erickson-aye and Robbins-aye. 8-ayes and 1-nay, motion carried. Alternate board member Roger Erickson removed himself from the board at this time and Darrell Nelson returned to the board.

Chair Robbins stated "We are now acting as the Brookings County Planning and Zoning Commission" and read **agenda item # 10: 2015cu006: Linde Dairy LLC by Rein Landman has made an application, 2015cu006, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 11: Class A, B, C and D Concentrated Animal Feeding Operation. The property is described as: "S1/2 SE1/4 Exc S680' of E700' of Sec. 29, T111N, R48W (Sherman Township)" ~ located at 47978 207th St, White, SD 57276.** Lee Ann Pierce moved to approve the conditional use request. Darrell Nelson second.

Chair Robbins opened up for discussion and asked Mr. Haugen for a staff report. Mr. Haugen stated, "Mr. Landman has applied for a conditional use # 11 Confined Animal Feeding Operation (CAFO) for the expansion of his existing dairy CAFO. He currently has a conditional use for a Class "B" CAFO dairy for 1,400 head of Holstein dairy cattle, 30 heifers, granted on June 6th, 2001, by the Brookings County Planning and Zoning Commission. He would like to expand to a Class "A" CAFO dairy by adding 1,920 head of Holstein dairy cattle, 30 heifers – equaling 2,730 animal units. A combined total 3,320 head of Holstein dairy cattle, 30 heifers and 30 calves, equaling 4,660 animal units when the expansion is completed. He was granted a variance on July 3rd, 2001 to build the existing dairy barn 100 feet from the county road in order to use the existing trees to buffer the lagoon from sight and to assist with odor control. The existing lagoon was constructed 100 feet from the adjoining property line, at that time the ordinance did not require the 200 feet setback from the adjoining property line. He has a "Permit to Occupy the Right of Way" from Brookings County Highway Department to run the hoses under Brookings County road # 8 (207th St) for pumping of the lagoon for manure application. Barn additions for additional free stalls and nursery were completed in 2013. There is a very small portion in the very northwest corner in the shelterbelt area in the flood plain, along with a small area directly north of his house and east of his feed storage area. The flood plain areas designated may be low areas that may stay wetter longer than others and with enough moisture may run water if the

conditions are right. No structures are located in the flood plain areas. There is a South Dakota Geological Survey (SDGS) Research Well located across the road to the east of the Mr. Landman's residence, 47988 207th St, White, in the road right of way in the Southwest ¼ of Section 28, T111N, R48W. It was drilled on August 6th, 1985 as a research well only, not for drinking water. The last data recorded out of there was the late 1980's or early 1990's. SDGS has no issue with the well location and the dairy expansion. Mr. Landman maintains a clean and well-kept facility and Zoning office has received no complaints about the operation." Chair Robbins asked Mr. Landman to address the board. Mr. Rein Landman stated "We run the dairy as a family, with my wife and two sons, we are the owners. We are at our maximum with our existing permitting and would like to expand to a Class A." Chair Robbins opened up for discussion from the board. The board discussed, if this was a nonconforming lot, the SDGS monitoring well, design of the manure storage basins, existing monitoring wells and if checks were done during construction. Mr. Hill stated "At the time this was permitted, it was not permitted on a nonconforming lot. This conformed to the zoning ordinance when it was permitted. It was permitted in 2001, at that time it met the criteria for a conforming lot." Chair Robbins opened up for discussion from the audience. Catherine Carter and Eowyn Corral discussed concerns with the flood plain, soil borings, well, nonconforming use. Mr. Hill contacted Mr. Layne Schulz, an Environmental Scientist IV, SDENR, Geological Survey, regarding SDGS Well R1-85-70. The well was drilled on August 6th, 1985 and cased to a depth of 583 feet. The well was used for research purposes only, not designated for drinking water. There is no issue with the SDGS and the proposed expansion of Linde Dairy. Mr. Haugen contacted Mr. Jay Gilbertson with East Dakota Water Development District concerning the proposed expansion and the location on the South Dakota Department of Environment and Natural Resources Geological Survey First Occurrence of Aquifer Materials Map in Brookings County. Mr. Gilbertson's opinion was the "The map may show it being in an area with the presence of aquifer materials, but the soil borings will prove if it is or is not." Mr. Brian Friedrichsen with Dakota Environmental, went over the soil borings for the proposed expansion and the original soil borings of the existing site, the design capacity of the manure storage basin. The basin is constructed three-quarters below ground and designed for 25-26% more storage than what is required. The basins are checked and monitored during construction. He went over the existing monitoring wells currently on site, that are checked two times a year and the results are sent in to South Department of Environment and Natural Resources (SD DENR). SD DENR has had no concerns with the readings of the monitoring wells. Chair Robbins asked for further discussion from the audience, seeing none, he asked for further discussion from the board. Seeing none, he asked Mr. Haugen to go over the Findings of Facts with any additions, which are on file. Chair Robbins called for a roll call vote: Nichols-aye, Spence-nay, Jensen-aye, Elenkiwich-aye, Pierce-aye, Rochel-aye, Nelson-aye, Kleinjan-aye and Robbins-aye. 8-ayes and 1 nay, motion carried.

Chair Robbins stated "We are now acting as the Brookings County Board of Adjustment" and read **agenda item # 7: 2015var008: Linde Dairy LLC by**

Rein Landman has made an application 2015var008 to the Brookings County Board of Adjustment, for a variance. Article 22: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setback and Separation Distance. The property is described as: "S1/2 SE1/4 Exc S680' of E700' of Sec. 29, T111N, R48W (Sherman Township)" ~~ located at 47978 207th St, White, SD 57276. Darrell Nelson moved to approve the variance request. Bob Rochel second. Chair Robbins opened up for discussion and asked Mr. Haugen for a staff report. Mr. Haugen stated, "Mr. Landman has applied for a variance to construct the new lagoon in line with his existing lagoon, approximately 100 feet from the north adjoining property line. This will allow him to keep the current trees that are there and help with screening and buffering as well as odor control. The current setback is 200 feet from the adjoining property and it will meet that on the West property line. Mr. Haugen read a letter, dated May 7th, 2015 from the adjoining property owner to the north, Margaret Eikmeier, stating, "She has no objections to building a new lagoon the same distance from her property as the existing lagoon is." Chair Robbins opened up for discussion from the board. The board discussed, if he could make it smaller to meet the setbacks, if the trees were existing when the previous variance was granted. Mr. Linde replied, "If we made it smaller, there would be less storage capacity and we would have to remove the existing trees and we want to keep the trees." Mr. Haugen replied "The trees were existing when first variance was granted." Chair Robbins opened up for discussion from the audience. Mr. Roger Scheibe with the South Dakota Dairy Producers, addressed his support for the expansion of Mr. Linde's dairy. Chair Robbins asked for further discussion from the board. Seeing none, asked Mr. Haugen to go over the Findings of Facts, with any additions, which are on file. Chair Robbins called for a roll call vote: Spence-aye, Jensen-aye, Elenkiwich-aye, Pierce-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Nichols-aye and Robbins-aye. 9-ayes and 0-nays, motion carried.

Chair Robbins read **agenda item # 8: 2015var009: Linde Dairy LLC by Rein Landman has made an application 2015var009 to the Brookings County Board of Adjustment, for a variance. Article 22: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setback and Separation Distance. The property is described as: "S1/2 SE1/4 Exc S680' of E700' of Sec. 29, T111N, R48W (Sherman Township)" ~~ located at 47978 207th St, White, SD 57276.** Darrell Kleinjan moved to approve the variance. Randy Jensen second. Chair Robbins opened up for discussion and asked Mr. Haugen for a staff report. Mr. Haugen stated, "Mr. Linde has applied for a variance to build a parlor approximately 105 feet from the right of way on 207th St. the new barn would be in line with the existing barn and he would be able to keep the trees directly to the north of the proposed barn. The length of the new barn is approximately 330 feet in length, only this portion of the new building would be closer to the road, the larger portion of the building would be approximately 208 feet from the right of way. The building will meet the 200 feet setback on the West side of the property." Chair Robbins asked Mr. Linde to address the board. Mr. Linde stated, "He is applying

for variance to be able to fit the number of cows on the site and have the new building align with the existing one.” Chair Robbins opened up for discussion from the board. The board discussed what the new building will be used for, entrance of trucks picking up the milk. Mr. Landman stated, “The new building will be used as an additional milking parlor for the expansion and will continue to use the existing one. The milk truck will use the existing driveway as we use now.” Mr. Hill stated, “The highway superintendent did not have any objections to the variance request. This is a good operation and they have a permit for a boring under the county road that they use for their manure pipes and has had no issues with this operation.” Chair Robbins opened up for discussion from the audience. Tom Davis and Chris Berndt spoke in favor dairy and the variance request. Chair Robbins asked for further discussion from the audience, seeing none, he asked for further discussion from the board. Seeing none he asked Mr. Haugen to go over the Findings of Facts, with any additions, which are on file. Chair Robbins called for a roll call vote: Jensen-aye, Elenkiwich-aye, Pierce-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Nichols-aye, Spence-aye and Robbins-aye. 9-ayes and 0-nays, motion carried.

Chair Robbins stated “We are now acting as the Brookings County Planning and Zoning Commission” and read **agenda item # 9: 2015cu005: City of Sinai by Doyle Johnson has made an application, 2015cu005, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: “A” Agricultural District, Conditional Use # 9: Sewage Treatment Plant. The property is described as: “E1/2 NE1/4, NW1/4 NE1/4 of Section 22, T109N, R52W (Lake Sinai Township)”**. Lee Ann Pierce moved to approve the conditional use request. Terrell Spence second. Chair Robbins opened up for discussion and asked Mr. Haugen for a staff report. Mr. Haugen stated, “This conditional use is for the City of Sinai for a new sewage lagoon to be located on the plat that approved earlier this evening. Their engineer Banner Associates has done all the planning for the project. It has met the state, historical, geological, environmental and archaeology studies requirements. They will be running a new pipe from the existing pumping station going to the South and across the road to the new lagoons. I was in contact with Mr. Jay Gilbertson with East Dakota Water Development District concerning the proposed site and the location on the South Dakota Department of Environment and Natural Resources Geological Survey First Occurrence of Aquifer Materials Map in Brookings County, it shows there is no presence of aquifer materials at the proposed sight.” Chair Robbins asked representative from Sinai to address the board. Mr. Jim Housiaux from Banner Associates stated, “We are the consulting firm representing the City of Sinai for this project. Doyle Johnson the Mayor of Sinai, is not able to be here tonight, as his is back in Sinai helping with the installation of rural water into the city. The city has a small mechanical plant that is similar to the type Brookings has, it is over 35 years old and needs to be upgraded. The current system is on the West edge of town and the treated effluent is discharged into Bachman slough, under their state permit. The new system would be a total retention stabilization pond system to be located on the proposed site South of Sinai.” Chair Robbins opened up for discussion from the board. The board discussed; agencies that

reviewed the project, how the effluent will get to the new site, plans for the new ponds and if it was normal to locate these ponds near bodies of water. Mr. Housiaux went over the agencies review requirements for the project with the board and how the effluent will be discharged stating, "A new line will be installed from the lift station to the retention ponds and the effluent will be pumped out the ponds." He also addressed the question "Of locating the pond close to bodies of water stating, "It happens all the time, but we need to meet the requirements of the Corps of Engineers if we are adjacent to or near waters of these United States, be it a wetland, river, lake or anything." Chair Robbins opened up for discussion from the audience. Mr. Paul Hope addressed concerns with the elevation of the berms compared to the gravel road and knows their current system is shot and this is their best alternative. Mr. Housiaux stated, "I do not have the plans here tonight, but when we do our elevations we are required to be above the 100 year high water line. So our protection is what should be expected for any flooding in that area" Mr. Hill and Mr. Housiaux went over the elevations markings on the site plan for the ponds with Mr. Hope and the board. Chair Robbins asked for further discussion from the audience. Mr. Haugen read comments received from adjoining landowners; Paul Moriarty on May 26th, 2015 with concerns of odor and how it would affect his land. On May 27th, 2015, Mr. Wayne Eastby called and had no objections to the conditional use request. He asked for further discussion from the board. Seeing none, he asked Mr. Haugen to go over the Findings of Facts, with any additions, which are on file. Chair Robbins called for a roll call vote: Jensen-aye, Elenkiwich-aye, Pierce-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Nichols-aye, Spence-aye and Robbins-aye. 9-ayes and 0-nays, motion carried.

Chair Robbins read **agenda item # 13: Department Reports.** Chair Robbins asked Mr. Hill for his staff report. Mr. Hill had Luke Muller from Frist District go over tentative plans for the comprehensive plan update. Mr. Muller handed out a project outline on delivered items to the board and stated, "They will divide the comprehensive plan update up in sections, so the board can review them a section at a time, instead of the whole update at once. They can review each section, suggest changes, etc. Then when all the sections are completed, we can have a rough draft, make any changes and then the final draft with a hearing." Mr. Hill went over his director's report stating, "He apologized for pulling the Ross's conditional use, it was an oversight. I was not at the meeting last month, as it should have been presented that it was in the joint jurisdictional area. We will use this as a learning experience for everyone and be cautious when we do things around the City of Brookings, so it does not happen again. He introduced Richard Haugen as the new deputy director for the County Development Department. We are in the process of interviewing for the office manager. The EPA has release the updated "Clean Water Act" and we will have be looking at how the South Dakota Department of Environment and Natural Resources updates their CAFO requirements and we will have to follow their recommendations when that time comes and update the zoning ordinance. Board member Randy Jensen asked "If they has been update on the court case?" Mr. Hill stated. "It has been heard by a judge on May 8th, 2015 and I was out of town. When we hear anything, we will bring in the deputy state's attorney in for an executive session to brief the board.

The judge has it under consideration and once he rules and that ruling is brought out, we will let you know. We were represented by legal team who has the county's insurance."

Chair Robbins adjourned the meeting at 10:25 PM.

Richard Haugen
Brookings County
Development Department.